

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____	)	
	)	
	)	
DWIGHT JOHN,	)	
	)	
Petitioner,	)	
	)	
v.	)	CIVIL ACTION
	)	NO. 05-11653-WGY
LOIS RUSSO,	)	
	)	
	)	
	)	
Respondent.	)	
_____	)	

MEMORANDUM AND ORDER

YOUNG, C.J.

December 15, 2005

On December 14, 2005, the Court ordered both parties to submit further briefing on the factual issue of the existence of an informal immunity agreement governing Dwight John's ("John") confession. The Court referred both parties to a letter written by Assistant United States Attorney David Novak ("Novak") to Robert Tochka, an Assistant District Attorney in Suffolk County. See Letter to Robert Tochka, Assistant District Attorney, Suffolk County District Attorney's Office from Helen Fahey, United States Attorney, by David Novak, September 23, 2000 ("Novak Letter") in Pet. App. In Support of Mot. to Vacate the Conviction and

Sentence Vol. II at 34-36 and 44-46 [Doc. No. 4]. In this letter, Novak writes: "I orally told [John] that he had use immunity for his statements to us, meaning that anything that he said cannot be held against him." Novak Letter at 2 (emphasis added).

In addition to any substantive arguments the parties wish to make, the Court orders that both parties inform the court as to the following:

- 1) The evidentiary history of this letter in the Massachusetts Superior Court and the Supreme Judicial Court (what motions the letter was attached to as an exhibit; when and if it was introduced at trial; if excluded, when and why);
- 2) Any reference to this letter at trial or pre-trial hearings;
- 3) Any reference to this letter in any court order or other court document filed by the Superior Court.

SO ORDERED.

/s/ William G. Young  
WILLIAM G. YOUNG  
CHIEF JUDGE